

# EXHIBIT C

November 21, 2021

To Whom It May Concern:

My name is Matthew Lawrence O'Leary, and since July 10th, 2017, I have served the New York City Department of Investigation ("DOI") as an eDiscovery Manager (with the civil service title of Special Investigator). In my role I have served many investigative units with digital forensics assistance, collection of subject emails, access to review digital forensics extractions and email collections, training in eDiscovery review platforms and exports of evidence for prosecutors. The new discovery laws have expanded by role to provide access to investigators with internal email collections and to assist with exports of this data for discovery. In the recent months, my role has included a major FOIL request which involved coordinating the participation of three NYC agencies in a joint review of files.

On Friday, October 22, 2021, I was notified by email that by October 29, I would be required to either submit proof of a first dose of a COVID-19 vaccination, or submit by October 27, a reasonable accommodation request. My understanding is that if I was not in compliance with these requirements, I would be placed on Leave Without Pay ("LWOP"). On Monday, October 25, 2021, I submitted a reasonable accommodation request that I be permitted to continue my employment, and roles and responsibilities in the workplace without receiving the COVID-19 vaccine due to my religious beliefs. I received an email request on Thursday, October 21, 2021, for a conference call scheduled for the following day, at 10 AM, to speak with me regarding the request. I accepted the invitation for a fifteen minute conference call<sup>1</sup>. The following morning, I attended the conference call with DOI EEO Officer Amy Young and DOI Human Resource Director Shayvone Nathaniel.

On Thursday, November 18, I was notified that my reasonable accommodation request was denied "...because it is not based on a sincerely held religious, moral, or ethical belief." I am writing this appeal because I believe the denial was wrongly decided. I have divided my appeal into many sections to point out issues I noticed with the evaluation process, the conference call documentation and a better explanation of my beliefs. I have also included concerns I have over whether public statements from the Mayor indicate that the Equal Employment Opportunity Commission's ("EEOC") might be fully understood or followed, which I think could have resulted in an unfair handling of my request. Lastly, I have included concerns over the continuity of operations for the DOI unit that I work in, should I be placed on LWOP.

#### 1. DOI's Interview

During my fifteen minute call, I was asked a series of questions which seemed to test the sincerity and conviction of my beliefs. I found the questions strange, because the email indicated the meeting would be a discussion about my "*request*," and not specifically about my *beliefs*. The first question about the request itself was to "*describe the nature of my objection to*

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<sup>1</sup> Referred to by DOI as the "cooperative dialogue phone conference"

COVID-19 vaccination.” This was essentially already answered in detail in a statement of beliefs which I attached to my application. The questions that followed seem very standard, and not specific to anything I had already written in my statement.

I took notes on the questions asked. After the meeting, I researched the questions asked and found similarities between a few of those questions and the ones found on this article:

<https://www.inc.com/suzanne-lucas/what-to-do-when-your-employees-claim-a-religious-exemption-to-vaccines.html>

Per the EEOC Guidance: *“Where the accommodation request itself does not provide enough information to enable the employer to make a determination, and the employer has a bona fide doubt as to the basis for the accommodation request, it is entitled to make a limited inquiry into the facts and circumstances of the employee’s claim that the belief or practice at issue is religious and sincerely held, and that the belief or practice gives rise to the need for the accommodation. Whether an employer has a reasonable basis for seeking to verify the employee’s stated beliefs will depend on the facts of a particular case.”<sup>2</sup>*

It would seem that if DOI felt the need to make a “*limited inquiry*,” prompting the meeting and the questions asked, it would further indicate they had a “*bona fide doubt*,” and believed the request did not provide them with “*enough information*” to make a determination. The use of mainly standardized questions in such a short time frame concerns me that this inquiry lacked the capacity to alleviate any “*bona fide doubts*” or provide DOI with “*enough information*.” Fifteen minutes is a small amount of time to provide a detailed explanation of one’s faith and beliefs. I would have gladly accommodated time for a longer meeting to answer any genuine and sincere questions about my beliefs. I was disappointed that the questions asked included standardized questions instead of specific questions that a person might have to genuinely better understand the beliefs I outline in my statement.

In the time between the October 29 interview and my November 18 receipt of the denial, DOI had a sufficient amount of time to ask me any follow up questions if they still had doubts after my interview. I was not contacted with any follow up questions. The use of this standardized questions concerns me that the EEOC guidelines were not adhered to, specifically:

- *“Like the religious nature of a belief, observance, or practice, the sincerity of an employee’s stated religious belief is usually not in dispute and is ‘generally presumed or easily established.’”<sup>3</sup>*
- *“Title VII requires employers to accommodate those religious beliefs that are ‘sincerely held.’ Whether or not a religious belief is sincerely held by an applicant or employee is rarely at issue in many types of Title VII religious claims.”<sup>4</sup>*
- *“Because the definition of religion is broad and protects beliefs, observances, and practices with which the employer may be unfamiliar, the employer should ordinarily*

<sup>2</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>3</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>4</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

assume that an employee's request for religious accommodation is based on a sincerely held religious belief."<sup>5</sup>

- "If, however, an employee requests religious accommodation, and an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief, observance, or practice, the employer would be justified in seeking additional supporting information."<sup>6</sup>

The approach taken conveyed to me that there was no presumption of sincerity by DOI. If DOI had an "objective basis for questioning either the religious nature or the sincerity," it would make sense that their questions would be custom written to address their concerns. It does not seem practical that standardized questions would be unique and specific enough to address those concerns. Therefore, I believe the interview itself was not custom tailored to address actual concerns. Instead, it was as a one-size-fits-all formality which was not even driven by an objective basis for the very line of questions that it included.

## 2. Clarification on the interview questions and answers

Upon notice of my denial, I requested that DOI submit all information that would be submitted subsequent to me filing an appeal. I was ultimately sent a copy of the notes taken by DOI EEO Officer Amy Young and DOI Human Resource Director Shayvone Nathaniel. My denial letter and the notes taken do not clearly indicate why it is believed that my request "...is not based on a sincerely held religious, moral, or ethical belief."

I did note certain examples where the questions and/or my responses were not accurately documented, and other areas where I believe that with additional time I could have provided more meaningful detail in my answer. I have included these below.

Shayvone Nathaniel's notes:

1. Please describe the nature of your objection to the Covid-19 vaccination requirement.  
**The fetal tissue used in vaccines. People are playing with God.**

Amy Young's notes:

Please describe the nature of your objection to the Covid-19 vaccination requirement. **Based on my religious beliefs that are based on 2 main points that are in the letter – 1 -use of fetal tissue in either testing or production of the vaccine and 2-vaccines, above what humans should be able to do, amounts to almost playing God.**

Clarification and Additional Information: In my response, I referenced the statement of my beliefs which I submitted with my request. In the third paragraph of my statement, I wrote "I believe doing so would be to abuse God's gift as a power which we have no right to do. By receiving a vaccine, I would be abusing, interfering and defiling the gift I have been given." This is essentially what I mean by "playing God." Given that time was limited, and that my

<sup>5</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>6</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

statement was already on file, I chose to reference my statement and provide main points. Both of these points stem from my belief that life is a sacred gift, which is explained in more detail in my statement and in Section 3 of this appeal.

2. Do you belong to an organized religion?

If yes, which religion? **raised Roman Catholic (Christian)**

Shayvone Nathaniel's notes: 3. How long have you subscribed to this faith? Life long

Amy Young's notes:

Do you belong to an organized religion? – **Raised Roman Catholic, not describe self as denominational, describe as Christian.**

How long have you subscribed to this faith? **Christianity – my whole life.**

Clarification and Additional Information: I was raised Roman Catholic, and I attend Sunday Mass at St. Helen's, a Roman Catholic Church. This is the Church where my parents were married, where I was Baptized and where I received my first Holy Communion. This Church has a special place in my life. I feel welcome in Mass even though I cannot recognize the Roman Catholic Church as the *correct* Christian denomination. I believe that God speaks to all believers in different ways, and that this has resulted in a myriad of Christian denominations. Therefore, there cannot be a *correct* denomination to the exclusion of all other denominations of Christian Churches. I consider myself a Christian, and so I belong to Christianity. Although raised Roman Catholic, and although I attend Mass at a Roman Catholic Church, I do not identify as denominational. This is because I believe that one can be Christian without believing that any particular Church or denomination is the *correct* one.

Shayvone Nathaniel's notes:

4. Do you have a place of worship? **Attends masses on Sunday. Saint Helen**

If yes, where? **Howard Beach**

If yes, what is the extent of your participation **No**

Amy Young's notes:

Do you have a place of worship? – **attend mass on Sunday, to be closer my faith/my god**

If yes, where? **Saint Helen's**

If yes, what is the extent of your participation – **none at this time**

Clarification and Additional Information: I recall being asked "...you attend mass, is there any other participation in the church?" I interpreted this question to mean "in addition to participation in Mass, do you participate in other Church affiliated activities," - such as volunteer services, which I have done in the past. Since this was included in my statement of beliefs, it seemed like I was being asked if I still perform Church affiliated volunteer services (e.g., Altar Serving or Church affiliated community service). Based on how I interpreted the question, I answered "*not at this time.*"

I note that the wording of the written questions does not match the verbal question I was asked. If I would have been asked "*what is the extent of your participation,*" I would have first asked for clarity to see if they referred to Church affiliated volunteer services or participation at



Mass. I would have also asked whether the interviewer referred to participation in Mass or general religious participation, such as prayer outside of Church. To apply the answer “no” or “none at this time” to the question “*what is the extent of your participation*” might imply to a reader that aside from *attending*, I do not participate in activities occurring during the Mass. This would be false. The actual *extent* of my participation at Mass includes engaging in prayer (both aloud and silent) and song, contributing financially, receiving the Eucharist and going to confession.

Shayvone Nathaniel's notes:

5. Do you have a worship or religious leader? **The Priest**

If so, who? ***Attends mass to be closer to God. But not a leader. A priest is not a leader but someone who helps you understand.***

Amy Young's notes:

Do you have a worship or religious leader? – **priest is religious leader**

If so, who? – **no leader that I follow word for word, priest is there to help you understand**

Clarification and Additional Information: In my response to this question I sought to help the interviewers understand why I did not consider a Priest to be considered a leader. I began by saying “*I guess you may consider the Priest to be the religious leader,*” but I then clarified that I do not consider this to be the case. I implied in the first sentence of my response that *many* believe a Priest to be a religious leader, while following this up with an explanation that I do not.

I would like to clarify my statement. I cannot blindly follow “*word for word*” a Priest's (or Bishop's/Cardinal's/Pope's) position. I must first come to my own understanding if there is support for the position in scripture. This also applies to interpretation of scripture itself. We are all responsible to make the right decisions, to find the answers to life's questions within scripture and not to follow anyone blindly. The question of whether a Priest is a leader is a very *general question*, and it really addresses how someone interprets the role a Priest should or should not have. My beliefs are that the role is limited to helping the parish understand the word of God. I also acknowledge the authority of the Priest to perform sacred rituals, administer sacraments and conduct Church operations. However, I do not recognize a Priest (or Bishop/Cardinal/Pope) as a *final authority* on interpretation of scripture and how one should live their life. To do so would allow one human to decide how another should live, and this would essentially be a form of secular leadership, and not religious leadership. It would also lead to a conflict where one Christian denomination or Church does agree with another. The onus must be on the individual, as it is their own soul which is at stake. I explain this in more detail in Section 3 of my Appeal.

Shayvone Nathaniel's notes:

9. Are there any other medicines or products that you do not use because of the religious belief underlying your objection? **Cannot use medicines unless absolutely necessary. Before getting a clearer understanding and try to use alternative natural medicines. Have taken over the counter supplements.**

Amy Young's notes:

Are there any other medicines or products that you do not use because of the religious belief underlying your objection? – **Tend not to use any real medicines, unless absolutely necessary, more kind of natural alternative; 2 years back sick with flu, doctor recommended anti-viral, pill-based steroid; instead stayed hydrated, vitamins, supplements (multi-vitamins, over the counter), didn't take any medicines because I didn't feel comfortable with those medicines.**

Clarification and Additional Information: My belief that certain medicines act in a manner that defines the sacred life we have been given by God is not limited to vaccines. There are many medicines that change our body's response to infection and symptoms, which I have not and would not feel comfortable taking for the same reasons as my objection to receiving the COVID-19 vaccination. It is certainly true that to live a productive and healthy life, we must have a nutritious diet. My belief is that prayer is the best "*medicine*," but in general we must also ensure that our bodies are supplied with adequate water, vitamins and minerals when sick.

Shayvone Nathaniel's notes:

10. Embryonic tissues were used in research, how do you handle Tylenol/advil that were developed in the same way? Why does religious belief prohibit vaccine? **Does not take any taken those drugs. Look for natural alternatives. Drink more water**

Amy Young's notes:

Many common drugs were tested using aborted fetal cells. How with belief system do you distinguish between those and the Covid vaccine? – **Don't take any of those. Also, my approach towards medicine in general; look for other ways to cure an ailment; drink more water.**

Clarification and Additional Information: I recall being asked "*how do you handle other medicines that were developed in the same way*," referencing my issue with the fact that the Covid-19 vaccines were either tested, developed or manufactured using fetal tissue. This differs from the wording of the questions from Shayvone Nathaniel's and Amy Young's notes - each of which has a different wording to the question. I was also not asked "*why does religious belief prohibit vaccine*?" I believe this question was addressed in my statement of beliefs, but I have included a more in-depth explanation in Section 3 of my Appeal.

I find it troubling not only that I would be asked a question differently from the manner in which each interviewer documented the question, but also that the interviewers documented different questions from each other. This brief fifteen minute discussion could very well have been predicated on the notion that DOI had a "*bona fide doubt*" as to the sincerity of my beliefs. I do not see how this doubt can be resolved by asking one question, and applying the answer to a question worded in a different way. I also do not see how the extremely important written question of "*why does religious belief prohibit vaccination*" could be resolved if I am not even asked. Certainly, if I was asked, the answer would be documented. If the interviewers did not ask, my responses might not be sufficient to resolve the "*bona fide doubt*" for which the interview itself was predicated. Lastly, if this question was important enough to include, why would the answer be absent from the interviewers' notes? If even for some reason, I was asked, and forgot to answer the question, shouldn't an interviewer follow up, given the importance of this question?

### 3. Supplemental Information on my Beliefs

The question of whether an individual recognizes a *religious leader* and adheres to positions taken by “*religious leaders*” of their faith might be used to assume the sincerity of that individual’s beliefs.

The Pope - considered by some to hold the highest level in the leadership of the Roman Catholic Church - made a statement that the COVID-19 vaccines were “*an act of love*,” and that “*thanks to God’s grace and to the work of many, we now have vaccines to protect us from Covid-19.*”<sup>7</sup> My faith has led me to believe that these statements are false. Further, I do not recognize the authority of the Pope to validate the creation, testing or receiving of a COVID-19 vaccine as a moral act.

In regards to religious authority or leadership, I believe first and foremost that there can be no higher *religious authority* than God. I believe that the role of any “leadership” *within* a Christian Church should be limited to ensuring structure, continuity of operations, spreading the word of God through the liturgy and missionary work, and protecting the faith. For me, the role of a Priest is limited to Church operations, administering the sacraments, performing sacred rituals and helping the parish understand the word of God through liturgy. In Roman Catholic theology, the Pope is considered the “Vicar of Christ,” or the representative of Christ on Earth. I certainly have faith that God speaks to *all of us* in such a way that we can find the answer to life’s questions. To do this, Christians must find answers within scripture. As such, I cannot believe that the Pope alone can have a final say on an official Christian position validating the recipient of the COVID-19 vaccine as a *moral act*.

As I wrote in my statement of beliefs, “...*the Moderna, Pfizer and Johnson & Johnson COVID-19 vaccines involved the usage - either through research and development or production - fetal cell lines, which originated from aborted fetuses.*” Abortion is not an act of love. It is the purposeful ending of a human life. This is an act of murder. To use the remains of an aborted child for science experiments or vaccine research and development/production is also not an act of love. This is a defilement of a sacred life. To then create a means to fight illness from the defilement of a sacred life is not only “playing God” but also paying for health and longevity with evil. Therefore, I cannot accept - contrary to the Pope’s statements - that we have the vaccines “...*thanks to God’s grace.*” The vaccines came to exist as a result of immoral and sinful actions. It is my belief that to take a vaccine would not be an “*act of love.*” I consider the use of aborted fetal tissue in the “...*research and development or production*” to be a furtherance of child sacrifice and sorcery. There are numerous examples in the Bible which speak to the evil of child sacrifice and sorcery:

2 Kings 17:17

**“And they caused their sons and daughters to pass through the fire, practiced witchcraft and soothsaying, and sold themselves to do evil in the sight of the Lord, to provoke Him to anger.”**

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<sup>7</sup> <https://www.vaticannews.va/en/pope/news/2021-08/pope-francis-appeal-covid-19-vaccines-act-of-love.html>



2 Chronicles 33:6

*"Also **he caused his sons to pass through the fire** in the Valley of the Son of Hinnom; he practiced soothsaying, used **witchcraft and sorcery**, and consulted mediums and spiritists. He did much evil in the sight of the Lord, to provoke Him to anger.."*

1 Corinthians 10:20

*"Rather, that the things which the Gentiles **sacrifice they sacrifice to demons** and not to God, and I do not want you to have fellowship with demons."*

Galatians 5:19-21

*"Now the works of the flesh are evident, which are: adultery, fornication, uncleanness, lewdness, idolatry, **sorcery**, hatred, contentions, jealousies, outbursts of wrath, selfish ambitions, dissensions, heresies, envy, murders, drunkenness, revelries, and the like; of which I tell you beforehand, just as I also told you in time past, **that those who practice such things will not inherit the kingdom of God.**"*

Revelation 18:23

*"The light of a lamp shall not shine in you anymore, and the voice of bridegroom and bride shall not be heard in you anymore. **For your merchants were the great men of the earth, for by your sorcery all the nations were deceived.**"*

My belief is that these passages show us that to obtain the powers to heal and increase lifespan through child sacrifice is sinful and would provoke God's anger. In modern times, we have the means to propagate fetal tissue and cell lines, essentially keeping alive part of what was meant to be a sacred human life. We have sacrificed a sacred life for what it was meant to be, and then used it for the power to heal and increase lifespan. This entire process is child sacrifice and modern sorcery, and it goes against my beliefs to take any part in it.

4. Public Statements and Concerns

On September 24, 2021, Mayor Bill DeBlasio appeared on the Brian Lehrer Show and answered questions related to the vaccine mandate for the NYC Department of Education. Brian Lehrer asked *"What are the religious exemptions? Do you have specific religions that don't allow vaccinations?"* to which the Mayor answered: *"Yeah. The best example is Christian Scientists religion, which is, you know, has been known for decades and decades to oppose vaccination. Someone is proven to be a member of that religion, that's something that predates the pandemic, is not someone claiming something a new. You know, someone's a member of that religion, that's the kind of thing that would lead to a valid exemption."*<sup>8</sup>

The Mayor's comments reflect a misunderstanding of the Equal Employment Opportunity Guidelines as they pertain to religious exemptions. His misunderstanding seems to be that a person must be a member of a *religion* which has historically opposed vaccination. I

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<sup>8</sup> <https://www1.nyc.gov/office-of-the-mayor/news/648-21/transcript-mayor-de-blasio-appears-the-brian-lehrer-show>

am concerned that this misunderstanding may have trickled down to city agencies as they conducted reviews of reasonable accommodation requests. The following are examples from the EEOC guidelines which contradict the position:

- *“Employers should individually assess each request and avoid assumptions or stereotypes about what constitutes a religious belief or practice or what type of accommodation is appropriate.”<sup>9</sup>*
- *“An employee’s belief, observance, or practice can be ‘religious’ under Title VII even if the employee is affiliated with a religious group that does not espouse or recognize that individual’s belief, observance, or practice, or if few – or no – other people adhere to it.”<sup>10</sup>*
- *“Title VII defines “religion” to include “all aspects of religious observance and practice as well as belief,” not just practices that are mandated or prohibited by a tenet of the individual’s faith.”<sup>11</sup>*
- *“Religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, Sikhism, and Buddhism, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.”<sup>12</sup>*
- *“Further, a person’s religious beliefs ‘need not be confined in either source or content to traditional or parochial concepts of religion.’”<sup>13</sup>*

In my appeal, I ask that the guidelines themselves be followed in determining whether my religious beliefs qualify for a reasonable accommodation, and not public statements which are contrary to these guidelines.

##### 5. My Role, Responsibilities and Commitments

I wish to speak to my role at DOI, and the burden which will result if I am placed on LWOP and terminated. In regards to my role, I am the eDiscovery Manager for DOI. I assist investigators and outside agencies on a daily basis with the review of electronic evidence. My work includes many eDiscovery cases. My cooperative work with members of outside agencies include: a DOJ prosecutor and staff members, an FBI agent, two NYC comptroller’s office employees, five SCI (Special Commissioner of Investigation for the New York City School District) employees, eight Department of Education employees, and two NYC Law Department employees. The DOI investigators and the members of these outside agencies rely on my involvement for their eDiscovery needs. If I am placed on LWOP and terminated, it will create a burden and impediment to their work.

I am part of the Digital Forensics Unit, which includes an Executive Director, a Chief Investigator, and four Digital Forensics Investigators. The remainder of my unit does have the

<sup>9</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>10</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>11</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>12</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

<sup>13</sup> <https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination>

experience or familiarity with my day-to-day responsibilities. From the moment I am placed on LWOP, they will have to immediately learn how to handle these responsibilities and assume the burden of an increased workload. In accordance with my beliefs as a Christian and the commitment to public integrity that brought me to work for DOI, I will do everything I can to answer technical questions (via a phone call) that would assist them with managing these responsibilities. I would do this knowing that my efforts will not be compensated.

6. Closing Statement

From the moment the NYC Workers Mandate was announced, I knew I had a difficult choice to make: risk my job and livelihood or risk my immortal soul. After deep contemplation, I have come to believe that the sacred gift of life which I have been given by God should not be defiled by receiving the COVID-19 vaccine. Receiving the COVID-19 vaccine would make me complicit in an act that involves the modern equivalent of child sacrifice and sorcery, acts which also defile sacred life. This is consistent with beliefs that I have held for all of my adult life. Sacrificing my job in order to stay on a path to God is the greatest decision I have ever been faced with. My appeal is based on my sincere religious beliefs, and the request that I can continue my roles and responsibilities without having to sacrifice one for the other.

I hope that my initial statement of beliefs (attached to this appeal) as well as the clarifications and concerns provide the reviewer with sufficient insight into the sincerity of my beliefs. Should you have any additional questions, please do not hesitate to contact me. I ask that you follow the EEOC guidance and make your decision concerning my appeal fairly and justly.

Psalm 106:3

*Blessed are those who keep justice,  
And he who does righteousness at all times!*

Regards,

Matthew Lawrence O'Leary